



SENIOR & LONG TERM CARE DIVISION COMMUNITY SERVICES BUREAU

HOME AND COMMUNITY BASED WAIVER Policy Manual

Section: ELIGIBILITY FOR SERVICES

**Subject: Individuals with Intellectual
Disability**

Administrative Rules of Montana (ARM 37.40.201)

PROGRAM OVERVIEW

The Developmental Disabilities Program (DDP) provides services to individuals with intellectual disabilities. DDP contracts with private, non-profit corporations to provide services to individuals with intellectual disabilities. These service programs are located in communities throughout Montana and provide an array of residential, work opportunities and case management for adults and support services for children. For information about services to individuals with intellectual disabilities call 1-406-444-2995 or visit the Disability Services Division website at dphhs.state.mt.us/dsd/index.htm.

DEFINITION

7) "Mental retardation" means:

(a) An applicant has or has had a primary or secondary diagnosis of mild, moderate, severe or profound retardation as described in the American Association on Mental Deficiency's Manual on Classification in Mental Retardation (1983) ; or

(b) An applicant has, or has had a primary or secondary diagnosis of a condition related to mental retardation, which is a severe, chronic disability that:

(i) is attributable to:

(A) autism, cerebral palsy or epilepsy; or

(B) any other condition, other than mental illness found to be closely related to mental retardation due to an impairment of general intellectual functioning or adaptive behavior similar to that of mentally retarded persons requiring treatment or services similar to those required for these persons;

(ii) is manifested before the person reaches age 22;

(iii) is likely to continue indefinitely; and

(iv) results in substantial functional limitations in three or more of the following areas of major life activity:

(A) self-care;

(B) understanding and use of language;

(C) learning;

(D) mobility;

(E) self-direction or;

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(F) capacity for independent living.

**SUBSTANTIAL
DISABILITY**

Means needing direct assistance in activities of daily living such as, but not limited to: eating, dressing, bathing, planning and preparing meals, shopping, planning for leisure time activities, caring for place of residence, and money management due to the developmental disability.

**DEVELOPMENTALLY
DISABLED WAIVER
SERVICE**

The Department has approved a separate waiver to provide HCBS to persons determined to be intellectually disabled in accordance with the definitions above and who would otherwise require the level of care provided in and Intermediate Care Facility for Individuals with Intellectual Disability (ICF/IID). Individuals receiving services through DDP waiver are not generally eligible for services under the HCBS waiver. Members who have a choice of services from either DDP or Physically Disabled/Elderly Waiver are those people who are both IID and who have a medically documented Brain Injury that occurred prior to age 18.

**INDIVIDUALS WITH
BRAIN INJURIES**

Individuals who are intellectually disabled may not access the HCBS waiver unless the placement is jointly authorized by the HCBS Program Managers and the DD Program Director or designee and each of the following criteria are met:

1. The individual has sustained a brain injury prior to age 18;
2. The individual's needs can be appropriately met by the HCBS waiver;
3. The applicant meets all waiver eligibility criteria, including Social Security Administration certification of disability and level of care criteria; and
4. The relevant case management team selects the applicant for an opening.

BRAIN INJURY

1. Means an injury to the brain by an external physical force, including but not limited to; a motor vehicle accident, a fall, an assault, a sports injury, or a recreational or work-related accident; or

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2. Brain damage caused by an internal occurrence including but not limited to;
 - a) Disease, such as a benign or malignant tumor, meningitis, or encephalitis;
 - b) Or a cerebrovascular accident, such as stroke, arteriosclerosis, aneurysm, or arteriovenous malformation; or
 - c) Anoxia, including but not limited to anoxia caused by near drowning, drug overdose, kidney or heart failure, chemical exposure, or electrical shock.

The term brain injury does not include injuries of a degenerative or congenital nature or those induced by birth trauma, such as anoxia at birth.

**ELIGIBILITY FOR
CHILDREN PRIOR
TO AGE SIX**

1. If the child is not Intellectually Disabled, s/he should be referred to the HCBS waiver, and would not be eligible for the DDP waiver.
2. If the child is Intellectually Disabled, he or she should be referred to the DD Waiver, and would not be eligible for the HCBS Waiver (unless the child has Brain Injury).
3. If the child is under the age of six, and a determination cannot be made as to whether or not the child is Intellectually Disabled, then he or she would be referred to the HCBS Waiver until such time as it is determined that the child is Intellectually Disabled. When that determination of Intellectual Disability is made, the child should be transitioned to DDP services with the following considerations:
 - a) No child will be exited from the HCBS waiver without transition to appropriate DDP services; and
 - b) No money will transfer from SLTC to pay for DDP services